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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/401,873	09/23/1999	Stuart Serkin	09857/029001	5264
26161 7590 10/14/2010 FISH & RICHARDSON P.C. (BO) P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				
			EXAMINER	
			BUCHANAN, CHRISTOPHER R	
ART UNIT		PAPER NUMBER		
3627				
NOTIFICATION DATE		DELIVERY MODE		
10/14/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

# Office Action Summary

**Application No.**

09/401,873

**Applicant(s)**

SERKIN ET AL.

**Examiner**

CHRISTOPHER R. BUCHANAN

**Art Unit**

3627

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4,5,7-12 and 14-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,7-12 and 14-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

### Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 5, 7-12, and 14-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over the NASD reference in view of Patterson et al. (US 5,797,002).

Regarding claim 1, NASD discloses an electronic market collector facility comprising a computer system having an interface to provide a single, common point of entry for coupling a plurality of order delivery systems and quote entry systems that send quotes to the computer system to the collector facility, a computer program that manages quotes received from the quote entry systems and orders received from the order delivery systems, that manages order routing/execution to provide for all orders received by the interface either a single point delivery of executions or routing of orders in accordance with parameters of the order (FF 14& 15), and that determines if one of the received orders has been executed by the collector facility (p. 11 par. 1, details describing order handling).

NASD does not explicitly show the system to receive a request to cancel execution of one of the received orders, to cancel the order if the order has not been executed, or to deny the request to cancel if the order has already been executed.

Patterson discloses an electronic trading system for consolidating orders from multiple sources (see abstract, col. 6 line 44+), wherein the system can receive a request to cancel execution of one of the received orders from a market participant (col. 7 line 24-30, customer sends request to cancel order). The examiner points out that after receiving a request to cancel an order it would be matter of logic to either cancel the order or deny the cancel request if the order has already been executed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of the NASD reference to receive a request to cancel execution of one of the received orders and to cancel the order if the order has not been executed or to deny the request to cancel if the order has already been executed, as taught by Patterson, to enable market participants to modify placed orders in response to changing market conditions.

Regarding claim 4, managing multiple quotes and orders at multiple price levels is shown by the management of the limit order file in NASD, since a limit order file contains multiple quotes and orders at multiple price levels (FF 18). Regarding claim 5, aggregate or current quote montage is shown by the three methods of display in NASD, including montage and full displays (FF 18). Regarding claims 7-12, the particular features of the management of the order routing/execution, i.e., including time stamping, assigning priorities, price levels, etc., would be matters of design choice, since the do not affect the nature of functioning of the invention. Regarding claims 14-19, the features of the invention recited in these claims have already been addressed in the rejection above. Regarding claims 20-29, the features of the invention recited in these

claims have already been addressed in the rejection above. Regarding claims 30-33, the order manager must either accept or decline the request and the particular criteria required for each option would be a matter of design choice. Regarding claims 34-37, the trading system is an electronic market.

### **Response to Arguments**

3. Applicant's arguments with respect to claims 1, 4, 5, 7-12, and 14-37 have been considered but are moot in view of the new ground(s) of rejection.

### **Conclusion**

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER R. BUCHANAN whose telephone number is (571)272-8134. The examiner can normally be reached on Mon.-Fri. 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. R. B./  
Examiner, Art Unit 3627

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art Unit 3627